

SUBJECT: UNDERGROUND STRUCTURES WITHIN THE RIGHT OF WAY
POLICY NO.: 700-18
EFFECTIVE DATE: April 4, 1975

BACKGROUND:

The Council has approved the encroachment of underground building or foundation structures within the right of way principally within the core area of the City. In view of the increasing values of real estate throughout the City, it is anticipated that this method of construction will increase. This policy sets forth basic criteria to be used in the approval of such underground structures.

PURPOSE:

To establish a policy for the approval of underground building or foundation structures within the public right of way.

POLICY:

Each application for an underground structure encroaching into the public right of way shall be considered on its own merit and with regard to the criteria set forth herein. The fact that the structure meets the criteria shall not automatically assure it of approval. It is, therefore, essential that the proposed project be submitted for review at the earliest practical stage.

A. General conditions for permanent underground structures located within a public right of way:

1. The property owner shall bear the responsibility and costs involved in protecting, maintaining, replacing, or relocating existing facilities within the right of way during construction.
2. The design of the project and the construction operations shall consider and provide for the use of the street for traffic purposes, utility facilities and services to adjoining property both during construction and following its completion.
3. Prior to the issuance of any permits for construction within the right of way, the owner shall enter into an agreement with the City which shall contain the following provisions and any other provisions deemed necessary to protect the public interest:
 - a. Absolve the City of any liability for damage to public or private property or personal injury as result of the encroachment.
 - b. Grant the City and utility company free and unlimited access to the structure as may be required to maintain, repair, replace, or relocate any public improvements or utility company facilities within or immediately adjacent to the encroaching structure.
 - c. Hold the City and utility company harmless against liability from property damage or personal injury with respect to any City-owned or utility company-owned or leased facilities therein.

- d. Provide for the removal of a structure and restoration of the right of way and affected utility facilities upon abandonment or removal of a structure.
- 4. Structures must be constructed within the limits of the reversionary rights of the property unless specific approval is obtained from the owner of the fee. If the owner of the fee is the City, the Council may approve a lease agreement for area occupied by the structure at an amount commensurate with the use.
- B. Permanent underground structures encroaching into the right of way to a point no farther than three feet behind the existing or future curb line may be approved by the City Engineer providing:
 - 1. The top of such structures shall be at least three feet below the existing curb grade.
 - 2. The use of the structure may be any of those uses permitted in the zone for the adjacent property, or as adopted in the Master Plan of the area.
 - 3. General conditions as set forth in A above are met.
- C. Permanent underground structures encroaching into the right of way farther than a point three feet behind the existing or future curb line may be approved by Council providing:
 - 1. In general, all such structures shall be located at least five feet below the existing curb line to a point eight feet beyond the curb line; 15 feet below the street to a point five feet from the center line; and 30 feet below the street in the five foot area on each side of the center line.
 - 2. An exception may be permitted for the construction of access ramps to underground structures provided:
 - a. Ramps do not extend farther then 8 feet beyond the curb line.
 - b. Adequate space is left along the property frontage for the installation of utility facilities as may be required for utility service.
 - c. Ramps shall be constructed only in front of the property to be served.
 - d. Ramps may be prohibited on two-way streets with 52-foot curb-to-curb widths or less, and major portions of the following streets which serve as one-way pairs within the downtown area; “A” and Ash Streets, “F” and “G” Streets, First and Front Streets, and 10th and 11th Avenues.
 - e. Ramps proposed for streets on major transit routes or where dual turn lanes may ultimately be required, will require special engineering consideration and possibly prohibition.

3. Provision shall be made for protection, replacement, or relocation of such utility facilities as directed by the City Engineer, such work to be done in accordance with the engineering requirements of the owner of said facilities.
4. The encroaching structures shall be limited to uses in conformance with the zoning of adjacent property.
5. General conditions as set forth in A above are met.

HISTORY:

Adopted by Resolution R-186396 02/17/1966

Amended by Resolution R-192312 12/05/1967

Amended by Resolution R-212927 04/04/1975